

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MARKET TEST OF EXPERIMENTAL PRODUCT—
CUSTOMIZED DELIVERY

Docket No. MT2014-1

**RESPONSES OF THE UNITED STATES POSTAL SERVICE
TO CHAIRMAN'S INFORMATION REQUEST NO. 1,
QUESTIONS 3 AND 5, WITH PORTIONS UNDER SEAL**
(October 9, 2014)

The United States Postal Service hereby provides notice of filing responses to Chairman's Information Request (CHIR) No. 1, Questions 3 and 5, with portions under seal. CHIR No. 1 was issued on September 30, 2014, and responses were due by October 7, 2014. The Postal Service filed responses to Questions 1-2, and 4 on October 8. The redacted responses to Questions 3 and 5 are attached. Portions of the responses to Questions 3 and 5 are being filed under seal. Each question is reprinted verbatim and is followed by the Postal Service's response. Also attached to this pleading is an application for non-public treatment for the protection of the commercially sensitive material being filed under seal.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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October 9, 2014

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3. In the Notice, the Postal Service states that during operational testing, "the retailer brings groceries already packed into retailer-branded totes, some of which are chilled or include freezer packs." Notice at 2.

- (a) Please provide a more detailed description of the totes, including their dimensions and weight limit. Please specify whether the totes can be enclosed by a zipper.
- (b) Are there limits to the number of totes that can be delivered per day to each address? If so, please specify the limit for how many totes can be delivered to each address per day.
- (c) Are there limits to the total number of totes that can be delivered per day? If so, please specify the limit for the total number of totes can be delivered per day.

RESPONSE:

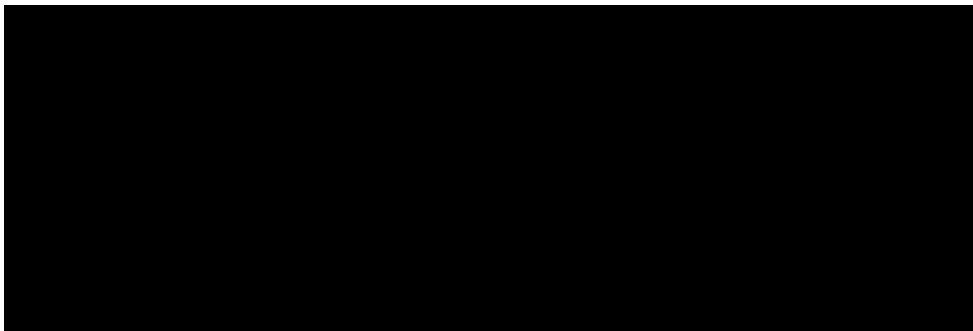
- a. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] There is no weight limit on totes for the operational testing currently being conducted. [REDACTED]
- [REDACTED] These details may vary for the market test depending on the characteristics of future participants' packaging.
- b. There is no limit on the number of totes that can be delivered to an address for the operational testing currently being conducted.
- c. There is no limit on the number of totes that can be delivered per day for the operational testing currently being conducted.

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5. In the Notice, the Postal Service states that it began conducting "operational testing" for early morning grocery delivery. Notice at 2. It explains that deliveries during the operational test have averaged 1 to 4 totes per address, with an average of 160 totes per day for the 38 ZIP Codes included in the testing. *Id.* at 3.
- (a) On what date did the operational test begin?
 - (b) Please provide a list of the 38 ZIP Codes included in the operational test.
 - (c) How does the "operational test" described in the Notice differ from a "market test" of an experimental product under 39 U.S.C. § 3641(a)(1)?
 - (d) How will the market test of Customized Delivery differ from the current process used during operational testing? *See id.* at 2-3.
 - (e) Please provide the total revenues received by the Postal Service from the operational test.

RESPONSE:

- a. The operational test began on August 18, 2014.
- b. The operational test ZIP codes are:



- c. Operational tests do not involve the establishment of new pricing. The Postal Service does not yield new revenue as part of operational tests. Moreover, operational tests are typically of very limited geographic scope (i.e. one metropolitan area) and duration (i.e. 1-2 months), and are designed for the Postal Service to determine if it has the operational capabilities to potentially introduce a new service or product offering either as a permanent product or a market test.

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- d. During the market test, the Postal Service will expand the number of cities in which the test is conducted, and run the market test for an extended period of time, up to two years. Additionally, participants will pay a fee for the Customized Delivery service. The current package sortation procedures and other operational details may change over the course of the market test, based on the number of participants and other factors unique to new participants or geographic areas.
- e. No revenue has been received as part of the operational test.

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the Postal Service hereby applies for non-public treatment of portions of its responses to Chairman's Information Request (CHIR) No. 1 that contain commercially sensitive, proprietary information. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below. For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials. The Postal Service has redacted this material from its public pleading.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3).¹ Because the portions of the materials which the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

¹ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

- (2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

The Postal Service gives notice that it has already informed the company with a proprietary interest in these materials, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Elizabeth Reed, Attorney, 475 L'Enfant Plaza SW, Washington, D.C. 20260-1137, whose email address is elizabeth.a.reed@usps.gov and whose telephone number is 202-268-3179.

- (3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

The redacted information consists of details of the operational test conducted by the Postal Service. This information includes a detailed description of the totes used to test early-morning grocery delivery, as well as the specific ZIP Codes that have been tested.

- (4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

The detailed description of the totes used as part of the operational testing, and the ZIP Codes tested, is commercially sensitive and proprietary information. Future market test participants' ability to compete effectively with other, non-participating firms offering Customized Delivery would be impaired, if these details were made public. In the emerging market for grocery delivery, firms will seek to compete based on the different types of containers or packaging used, as well as the geographic locations in which they will offer grocery delivery. These factors will be unique to each potential market test participant, and those details will not be made public as part of the market

test. It would cause competitive harm to publicly disclose these details that were used in operational testing. Disclosure of these details could diminish the willingness of qualifying companies to participate in the Customized Delivery market test, which would further erode the effectiveness of the market test as a whole.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Identified harm: Non-participating firms and other competitors could use these operational details to tailor their grocery delivery service to the detriment of the Postal Service and its market test participants.

Hypothetical: The operational details are disclosed to the public and made available to a competitor. The competitor adjusts its containers and packaging, and the geographic scope of its delivery plans, in order to replicate the Customized Delivery service offered by the Postal Service. The competitor could then adjust its pricing and marketing efforts at actual or potential test participants in the specific metropolitan area(s) that the Postal Service intends to test. These activities could deprive the Postal Service of qualifying test participants before it has been able to adequately test Customized Delivery in the marketplace.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the market for domestic parcel shipping products, as well as their consultants and attorneys.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.